



2024:DHC:9805



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of decision: 9th December, 2024***+ **MAC.APP. 12/2019**

VIJAY SINGH MALIKAppellant

Through: Mr. S.N.Parashar, Advocate.

versus

NARESH KUMAR & ANR (NATIONAL INSURANCE CO.
LTD.)RespondentThrough: Ms. Seema Gulati, Advocate for
R-3.**CORAM:****HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (oral)**

1. The present Appeal under *Section 173* of the *Motor Vehicles Act, 1908* has been filed on behalf of the Appellant seeking enhancement of the compensation which has been awarded in the sum of Rs.10,62,863/- along with interest @ 9% per annum on account of the injuries suffered by him in a road accident on 18.10.2011.
2. The learned counsel on behalf of the Appellant has contended that he has suffered permanent disability of 36% of right lower limb but no compensation on account of functional disability has been granted. That the Appellant remained on leave for one year for which he has been granted Rs.2,98,560/-. The future income on account of permanent disability has not been considered. The compensation on account of Pain and Suffering, Conveyance Charges, Special Diet and Attendant Charges are on the lower side. That the Tribunal has granted Loss of Amenities in



2024:DHC:9805



the sum of Rs.1,00,000/- but has not been added up in the final calculation. It is, therefore, submitted that the compensation should be enhanced.

3. Learned counsel on behalf of Insurance Company, however, has countered by stating that the injured was in permanent Government job and was working as Additional Officer (Grade-I). There is no diminution of his regular income though it is alleged that he would suffer in promotions but no such evidence has been led on record. The other compensations have been granted in accordance with law and do not require any interference. In so far as the loss of Amenities is concerned, it is submitted that it may be granted as it is admittedly not included in the compensation.

4. **Submissions Heard and record perused.**

5. ***Briefly stated*** that on 18.10.2011, petitioner who was employed with Delhi Fire Service and posted as Additional Officer with Food Supply and Consumer Affairs was on checking duty near WHO Building, IP Estate, Delhi along with other colleagues. He was hit by the offending car bearing No.DL-3C-BF-7409 which was owned and driven by Respondent No.1. He was taken to LNJP Hospital and thereafter to Sir Ganga Ram Hospital where was operated four times and various other medical procedures were conducted upon him at different point of time. FIR No.128/2011, P.S. I.P. Estate under Section 279/338 IPC was registered in regard to the accident.

6. The learned Trial Court considered that the Petitioner remained on leave for one year and consequently granted Rs.2,98,560/- as the Loss of Income.



2024:DHC:9805



7. Undeniably he suffered from permanent disability of 36% of right lower limb, however, it has been brought on record that there has been no reduction in his salary on account of permanent disability. Though it has been argued on behalf of the Appellant that his future promotion prospects would be impacted but there are no cogent evidence led in this regard.

8. Furthermore, the disability itself prohibits any such hardship being imposed on a person merely because he has suffered a disability. No ground made out for grant of Loss of Future Income/promotion prospects. Likewise, he would continue to get the regular pension. There is no evidence produced on record that there were any re-employment prospects which have been hampered on account of permanent disability. *No additional compensation for future loss of income is, therefore, made out.*

9. The Petitioner remained under treatment for about one year. The Appellant had suffered Compound Fracture, Right Femur, Lacerated Wound over right Thigh and Right Knee beside other multiple injuries on whole part of the body and suffered permanent disability. He was diagnosed of Right Supracondylar compound fracture femur with right popliteal artery injury. He underwent right femoropopliteal artery bypass with external fixator. *The four other surgical interventions were done. The entire treatment period was one year.*

10. In the light of the major injuries, the compensation under various non-pecuniary heads is hereby revised.



2024:DHC:9805



Heads	Awarded by Tribunal	Awarded by Court
Loss of Leaves	Rs.2,98,560/-	Rs.2,98,560/-
Pain and Suffering	Rs.1,00,000/-	Rs.1,50,000/-
Medical Expenditure	Rs.5,28,303/-	Rs.5,28,303/-
Conveyance Charges	Rs.20,000/-	Rs.40,000/-
Special Diet	Rs.20,000/-	Rs.40,000/-
Attendant Charges	Rs.96,000/-	Rs.96,000/-
Loss of Amenities	Nil	Rs.1,00,000/-
TOTAL COMPENSATION	Rs.10,62,863/-	Rs.12,55,000/- (Rounded off)

Relief: -

11. In view of the above, the Claimant is awarded total compensation of **Rs.12,55,000/-** along with the interest @9% per annum from the date of filing of the Petition till realization; to be disbursed in terms of the Award dated 16.09.2017. The Insurance Company is directed to deposit the enhanced Awarded amount within 30 days with the learned Tribunal.

12. The Appeal is allowed and disposed of accordingly along with the pending Application(s), if any.

(NEENA BANSAL KRISHNA)
JUDGE

DECEMBER 9, 2024
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